IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.97 OF 1996

Mr.V.M.Khandagale. ..Petitioner.

V/s.

State of Maharashtra & Ors. ..Respondents.

Mr.C.H.Gangan for petitioner.

Mr.A.A.Kumbhakoni, Asso.Adv.Gen. with S.S.Bhende, AGP for respondent Nos.1 and 2.

Mrs.Smita Kadam, Dy. Director of Education.

CORAM: A.M.KHANWILKAR,J

DATE : JULY 27, 2006.

P.C. :

1. In this contempt petition, the grievance was made about non-compliance of order dated 8th April, 1994 in Appeal No.GEN/394/BOM-146 of 1993 passed by the School Tribunal, Bombay. The Tribunal passed following order:

"ORDER

a) Appeal is allowed;

b) impugned notice dt.4.8.93 is hereby set aside;

c) the impugned termination notice dated 4.8.1993 is hereby ordered to be set aside and the respondent/management is directed to reinstate the appellant to his original post and pay him the differences of emoluments, including pay and allowances, from the date of termination of his services till he is

reinstated to his original post;

d) the respondents/management is hereby directed to comply with the above directions within forty days from the receipt of the copy of this judgment/order and report compliance thereof to this Tribunal;

e) No order as to its costs."

The grievance in this petition was one of non-payment of arrears of backwages, as ordered by the Tribunal. During the pendency of this petition, the Deputy Director of Education was called upon to examine the grievance of the petitioner regarding deficit payment after giving notice and to hold enquiry for that purpose, in which representative of management should also be heard. The Director has accordingly, conducted the enquiry and on affidavit it is stated that the stand taken by the petitioner of deficit payment to the extent of Rs.43,121/- is correct. It is also seen that in terms of said decision taken by the Director commensurate amount has been deposited in the salary account of the petitioner from the salary grant payable to the School. There is no reason to doubt the correctness of the stand taken by the Director on the affidavit in the above terms. Indeed, there has been delay in paying the amount, which has now been quantified by the Director as arrears of backwages in terms of order passed by the

School Tribunal.

3. In this context Counsel for the petitioner submits that the petitioner be provided with some compensation in the form of interest on the short-payment made to the petitioner for the period from 1995 at the reasonable rate. Although this court may express full sympathy with the petitioner, it is not possible for this court to issue such order as present proceeding is contempt action. In such petition in absence of clear direction by the court in its earlier order to pay interest in case of default, it is not open for this court to pass such order. Besides, no statutory provision has been brought to my notice, which would entitle the petitioner for payment of interest for delayed payment. Thus understood, no further direction can be passed in this petition against the respondent Nos.1 and 2.

. In so far as the Management is concerned, the stand taken on their behalf was that requisite amount was already paid to the petitioner after the order of Tribunal. However, there was difference of opinion about the amount to be paid to the petitioner in terms of order of the Tribunal. That difference has now been resolved by the Director. Accordingly, it

is not possible to take the view that it is a case of wilful disobedience of the order passed by the Court, for which contempt action needs to be initiated.

4. Hence, petition is disposed of leaving all questions open, in the event the petitioner takes recourse to appropriate remedy for recovery of damages/compensation/interest for the delayed payment against the management. Notice issued to the respondents is discharged.